

**BEFORE THE
STATE COMMITTEE OF PSYCHOLOGISTS
STATE OF MISSOURI**

STATE COMMITTEE OF PSYCHOLOGISTS,)	
)	
Petitioner,)	
)	
v.)	CASE No.: 12-0407 PS
)	
STEPHEN W. BECKER,)	
)	
Respondent.)	

**ORDER OF THE MISSOURI
STATE COMMITTEE OF PSYCHOLOGISTS
REVOKING THE LICENSE OF
STEPHEN W. BECKER**

On or about December 4, 2012, the Administrative Hearing Commission entered its Decision ("AHC Decision") in the case of *State Committee of Psychologists v. Stephen W. Becker*, Case No. 12-0407 PS. In that Decision, the Administrative Hearing Commission found cause for the State Committee of Psychologists ("Committee") to discipline Stephen W. Becker ("Becker") under § 337.035.2(2), RSMo.¹

The Committee has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice, §§ 621.110 and §337.035, RSMo, the Committee held a hearing on March 21, 2012, at approximately 2:15 p.m., at the Adams Pointe Conference Center, 1400 NE

¹ Unless otherwise noted, all statutory references are to the Revised Statutes of Missouri 2000, as amended.

Coronado Drive, Blue Springs, Missouri for the purpose of determining the level of discipline, if any, to be imposed upon Becker's license by the Committee. The Committee was represented by Assistant Attorney General Ron Smith. Respondent received proper notice and opportunity to appear but did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Committee issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Committee hereby states:

I.

FINDINGS OF FACT

1. The Committee is an agency of the state of Missouri created and established pursuant to § 337.050, RSMo, for the purpose of licensing all persons engaged in the practice of psychology in this state and executing and enforcing the provisions of §§ 337.010 – 337.093, RSMo.

2. Stephen Becker was licensed by the Committee as a psychologist, as defined in § 337.010, RSMo, under license number 2000159802. Becker's address on file with the Committee is DOC ID 1209223, N Correctional Center, 13698 Airport Road, Bowling Green, Missouri, 63334.

3. On March 21, 2013, prior to the discipline hearing before the Committee, the Committee received a notarized, written statement from a correctional officer within the facility in which Becker is incarcerated confirming that such officer had verbally confirmed with Becker that he had received the Committee's hearing notice.

4. The Committee hereby adopts and incorporates by reference the December 4, 2012 Findings of Fact as set forth in the Decision of the Administrative Hearing Commission in

State Committee of Psychologists v. Stephen W. Becker, Case No. 12-0407 PS, in its entirety.

The Committee hereby enters its Findings of Fact consistent therewith.

5. The Committee set this matter for a discipline hearing and served notice of the violation hearing upon Becker in a proper and timely fashion.

II.

CONCLUSIONS OF LAW

6. This Board has jurisdiction over this proceeding pursuant to §§ 621.110 and 337.035, RSMo.

7. The Committee expressly adopts and incorporates by reference the December 4, 2012 Findings of Fact as set forth in the Decision of the Administrative Hearing Commission in *State Committee of Psychologists v. Stephen W. Becker*, Case No. 12-0407 PS, in its entirety. The Committee hereby enters its Conclusions of Law consistent therewith.

8. The Committee has determined that this Order is necessary to ensure the protection of the public.

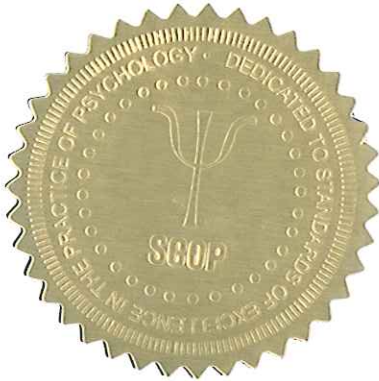
III.

ORDER

Having fully considered all the evidence before the Committee, and giving full weight to the Decision of the Administrative Hearing Commission, it is the **ORDER** of the Committee that Stephen W. Becker's license to practice psychology is hereby **REVOKED** as of the effective date of this Order. Licensee shall immediately return all indicia of licensure to the Committee.

The Committee will maintain this Order as an open, public record of the Committee as provided in Chapters 337, 610, and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 3rd DAY OF May, 2013.



STATE COMMITTEE OF PSYCHOLOGISTS

Pamela Groose
Pamela Groose, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



RECEIVED
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MISSOURI
ATTORNEY GENERAL

STATE COMMITTEE OF
PSYCHOLOGISTS,

Petitioner,

vs.

STEPHEN W. BECKER,

Respondent.

No. 12-0407 PS

DECISION

Stephen W. Becker is subject to discipline.

Procedure

On March 15, 2012, the State Committee of Psychologists ("the Committee") filed a complaint seeking to discipline Becker. On April 6, 2012, Becker was personally served with a copy of the complaint and our notice of complaint/notice of hearing. Becker did not answer the complaint.

On July 20, 2012, the Committee filed a motion for summary decision. Becker responded to the motion on August 6, 2012. Under Regulation 1 CSR 15-3.446(6), we may grant the Committee's motion and decide this case in its favor without a hearing if the Committee establishes facts entitling it to a favorable decision that are not genuinely disputed by Becker. Facts may be established by admissible evidence such as a stipulation, pleading of the

adverse party, discovery response of the adverse party, affidavit, or any other evidence admissible under law.¹

Findings of Fact

1. The Committee first licensed Becker as a psychologist on June 3, 2000. His license remained current and active until it expired on January 31, 2010.

2. On August 28, 2007, in the city of Desloge, Missouri, Becker was issued a summons based on an allegation that he was driving while intoxicated,² in violation of a Desloge municipal ordinance.

3. On November 13, 2007, the Circuit Court of St. Francois County, Missouri, City of Desloge Municipal Division, upon a plea of guilty, found Becker guilty of Driving While Intoxicated based on the conduct set out in the above paragraph. He was sentenced to 30 days in jail, 28 days of which were suspended under an execution of sentence.

4. On May 26, 2009, Becker was charged by complaint with Driving While Intoxicated- Persistent Offender in violation of §§ 577.010³ and 577.023.1(5)⁴ in the Circuit Court of St. Louis County based on an allegation that he drove while intoxicated on September 28, 2008.

5. On April 1, 2010, the Circuit Court of St. Louis County, Missouri, upon a plea of guilty, found Becker guilty of the Class D Felony of Driving While Intoxicated – Persistent Offender based on the conduct set out in the above paragraph. He was sentenced to four years' imprisonment.

¹Regulation 1 CSR 15-3.446(6)(B).

² We sometimes refer to "driving while intoxicated" by its popular acronym, "DWI."

³ Statutory references are to RSMo 2000 unless otherwise indicated.

⁴ RSMo Supp. 2008.

6. On February 25, 2009, Becker was charged by information with Driving While Intoxicated- Persistent Offender in violation of §§ 577.010 and 577.023.1(5) in the Circuit Court of Butler County based on an allegation that he drove while intoxicated on October 19, 2008.

7. On April 13, 2010, the Circuit Court of Butler County, Missouri, upon a plea of guilty, found Becker guilty of the Class D Felony of Driving While Intoxicated – Persistent Offender based on the conduct set out in the above paragraph. He was sentenced to four years' imprisonment, with the sentence to run concurrently with the St. Louis County sentence.

8. On May 27, 2010, Becker was charged by felony information with Driving While Intoxicated- Chronic Offender in violation of §§ 577.010 and 577.023.1(2) in the Circuit Court of St. Francois County based on an allegation that he drove while intoxicated on October 9, 2008.

9. On August 4, 2010, the Circuit Court of St. Francois County, Missouri, upon a plea of guilty, found Becker guilty of the Class B felony of Driving While Intoxicated – Chronic Offender based on the conduct set out in the above paragraph. He was sentenced to five years' imprisonment, with the sentence to run concurrently with the sentence he was then serving.

Conclusions of Law

We have jurisdiction to hear the Committee's complaint.⁵ The Committee has the burden of proving Becker has committed an act for which the law allows discipline.⁶ It argues that Becker is subject to discipline under § 337.035.2(2), which provides:

The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any . . . license required by this chapter . . . for any one or any combination of the following causes:

⁵Section 621.045, RSMo Supp. 2011.

⁶*Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

* * *

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed[.]

Paragraph (2) has two discrete elements: (a) the licensee must have been finally adjudicated and or entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States, and (b) the offense the licensee committed must either (i) be reasonably related to the qualifications, functions or duties of any profession licensed or regulated under Chapter 337, (ii) have an essential element of fraud, dishonesty, or an act of violence, or (iii) involve moral turpitude, whether or not sentence is imposed. The Committee obnly argues the third option, moral turpitude. We apply the facts of this case to the statute.

*...adjudicated and found guilty, or entered a plea of guilty...
in a criminal prosecution under the laws of any state or of the United States*

All four of Becker's convictions involved a plea of guilty, but there is a question under Missouri law whether the municipal court proceeding was a "criminal prosecution under the laws of any state." While the proceeding certainly looks like a criminal proceeding—Becker was charged, pled guilty, and sentenced to a jail term—there is case law authority that municipal ordinance violations are merely quasi-criminal in nature,⁷ and other authority that they are civil, not criminal.⁸ Any finding we make on the municipal ordinance matter is mooted, however, by the fact that there were three other state court criminal prosecutions for violations of Missouri

⁷ *Strode v. Director of Revenue*, 724 S.W.2d 245, 247 (Mo. banc 1987).

⁸ *City of Cape Girardeau v. Jones*, 725 S.W.2d 904, 907 (Mo. App., E.D. 1987); *City of St. Louis v. Brune Mgt. Co.*, 391 S.W.2d 943, 945 (Mo. App., St.L. Dist. 1965).

criminal laws, and Becker entered guilty pleas in all three prosecutions. Therefore, the first element is satisfied.

...any offense involving moral turpitude....

The Committee argues that Becker's two convictions for Driving While Intoxicated- Persistent Offender, and his conviction for Driving While Intoxicated- Chronic Offender, constitute moral turpitude. Moral turpitude is:

an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything "done contrary to justice, honesty, modesty, and good morals." [9]

In *Brehe v. Missouri Dep't of Elementary and Secondary Education*,¹⁰ a case that involved discipline of a teacher's certificate under § 168.071 for committing a crime involving moral turpitude, the court referred to three classifications of crimes:¹¹

- (1) crimes that necessarily involve moral turpitude, such as frauds (Category 1 crimes);
- (2) crimes "so obviously petty that conviction carries no suggestion of moral turpitude," such as illegal parking (Category 2 crimes); and
- (3) crimes that "may be saturated with moral turpitude," yet do not involve it necessarily, such as willful failure to pay income tax or refusal to answer questions before a congressional committee (Category 3 crimes).

The court stated that Category 3 crimes require consideration of "the related factual circumstances" of the offense to determine whether moral turpitude is involved.¹² In this case, Becker's DWI convictions do not necessarily involve moral turpitude, nor are they so obviously

⁹*In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985) (quoting *In re Wallace*, 19 S.W.2d 625 (Mo. banc 1929)).

¹⁰213 S.W.3d 720 (Mo. App., W.D. 2007).

¹¹*Id.* at 725 (quoting *Twentieth Century-Fox Film Corp. v. Lardner*, 216 F.2d 844, 852 (9th Cir. 1954)).

¹²*Brehe*, 213 S.W.3d at 725.

petty as to carry no suggestion of moral turpitude. Therefore, we examine Becker's offenses to see if they fit into Category 3.

On multiple occasions, Becker pled guilty to driving while intoxicated under § 577.010, including as a persistent and then a chronic offender under § 577.023. Under § 577.010, "[a] person commits the crime of 'driving while intoxicated' if he operates a motor vehicle in an intoxicated or drugged condition." A person is a "persistent offender" under § 577.023.1(5) if he or she "has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses[.]" A "chronic offender" under § 577.023.1(2) "is . . . [a] person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses[.]"

In the past, our determinations as to whether driving while intoxicated is a crime involving moral turpitude have depended in part on whether the licensee or applicant had one, or multiple, DWI convictions, as well as the nature of those convictions.¹³ While our previous decisions do not have precedential authority,¹⁴ they can serve as a guide for rendering an appropriate finding.

In this case, Becker's three felony DWI convictions are more akin to the prior cases where we have found moral turpitude. He exhibited a pattern of driving while intoxicated during a concentrated period between August 2007 and October 2008, and was not deterred by the multiple criminal charges against him. While in prior cases, we have refused to find moral turpitude for a single DWI conviction, or in one instance three misdemeanor convictions, we have found moral turpitude for five alcohol-related driving offenses, as well as for a felony

¹³See e.g., *Moler v. Board of Nursing*, No. 05-1367 BN (Sept. 5, 2006); *Missouri Real Estate Commission v. Gillotti*, No. 07-0860 RE (Feb. 1, 2008) (no moral turpitude for one DWI conviction); *State Bd. of Nursing v. Fitchpatrick*, No. 04-0898 BN (Mar. 1, 2005) (no moral turpitude for three DWI convictions, all misdemeanors, two being municipal ordinance violations); *contra*, *Missouri Real Estate Comm'n v. Simpson*, No. 00-0474 RE (Oct. 5, 2000) (moral turpitude for five alcohol-related driving offenses); *Director of Insurance v. Olsen*, No. 97-001026 DI (July 31, 1997) (moral turpitude for felony persistent offender DWI conviction based on two prior DWI convictions).

¹⁴*Central Hardware Co. v. Director of Revenue*, 887 S.W.2d 593, 596 (Mo. banc 1994).

persistent offender conviction based on two prior DWI convictions. Becker's case falls into the latter category. Therefore, the second element of §337.035.2(2) is satisfied as well.


Becker's Response

While the Committee objected to Becker's response to its motion for summary decision because it was not supported by affidavit or admissible evidence, there is nothing in the response that would undermine the cause for discipline the Committee seeks. Instead of contesting his DWI convictions or his imprisonment for those convictions, he informed us that (a) he suffered from muscle atrophy and partial paralysis arising from inherited neuro-motor disease and spinal osteoarthritis; (b) as a result, he decided to retire from the practice of psychology, and pursuant to that action, he "voluntarily relinquished" his license and transferred his clients and closed his practice; and (c) he then applied for and was granted permanent physical disability status from the Social Security Administration. He did not allege that his DWI convictions had anything to do with his physical condition, nor did he contest the Committee's allegations, which we deem admitted. Finally, he characterized the Board's actions as "dead horse abuse," but we disagree with that characterization, while we recognize it as Becker's acquiescence to the Board's attempt to find cause for discipline.

Summary

We find that driving while intoxicated as a persistent and a chronic offender under §§ 577.010 and 577.023 are crimes involving moral turpitude. The Committee has cause to discipline Becker under § 337.035.2(2).

SO ORDERED on December 4, 2012.


NIMROD T. CHAPEL, JR.
Commissioner